

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.3616 of 2020

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Md. Ammar Gaji @ Md. Ammar Gazi Son of Md. Hasim, Resident of
Village- Rauta (Baisi), P.S. Rauta, District- Purnia.

... .. Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary, Department of Excise,
Patna, Bihar.
2. The Divisional Commissioner, Department of Excise, Purnia Division,
Purnia.
3. The Collector-Cum-District Magistrate, Katihar.
4. The Superintendent of Police, Katihar.
5. The Dy. Superintendent of Police, Katihar.
6. The Officer-in-Charge, Katihar (Muffasil), Police Station, District- Katihar.

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr.Pawan Kumar Singh
For the Respondent/s : Mr.Kumar Manish (Sc5)

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CORAM: HONOURABLE THE CHIEF JUSTICE
and
HONOURABLE MR. JUSTICE S. KUMAR
ORAL ORDER

(Per: HONOURABLE MR. JUSTICE S. KUMAR)

2 10-07-2020 Heard learned counsel for the petitioner and learned
counsel for the respondents.

This writ application has been filed for release of
Vehicle (TEMPO-3 Wheeler's Goods) bearing registration no.
BR 11GB 8636 Chasis No. MCG27GBDKG1816720 which has



been seized in connection with Katihar (Muffassil) PS Case No. 338 of 2019 dated 15.12.2019 registered for the offence punishable under Section 279 and 338 of the IPC and Section 3(c) of the Bihar Prohibition and Excise Act, 2016 and Section 3 of Prevention and Damages to Public Property Act, 1984.

FIR was instituted under Section 279 and 338 of the IPC and Section 3(C) of the Bihar Prohibition and Excise Act, 2016 and Section 3 of Prevention and Damages to Public Property Act, 1984, against the driver of the vehicle bearing Registration No. BR 11GB 8636, who was found in a drunken condition while driving the vehicle giving rise to Katihar (Muffasil) PS Case No. 338 of 2019.

Petitioner claims to be owner of the vehicle and since there is no recovery of any illicit liquor and allegation is against the driver of driving Auto-Rickshaw in a drunken condition as such, Auto-Rickshaw is not liable for confiscation and bar of jurisdiction in confiscation under Section 60 of the Excise Act is not applicable, as such concerned Special Court (Excise) can exercise jurisdiction under Section 451 of Cr.P.C for release of the vehicle during pendency of criminal trial.

The writ petition is disposed of with liberty to petitioner to file a petition under Section 451 of Cr.P.C for



release of vehicle before the concerned Special Court (Excise),
where the trial of case arising out of Katihar (Muffasil) PS Case
No. 338 of 2019 is pending and the Special Court is directed to
dispose of such petition within 30 days from the date of filing.

(Sanjay Karol, CJ)

(S. Kumar, J)

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